

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PHILLIP LEE FANTONE,

Plaintiff,

v.

MICHAEL J. HERBIK, MD,

in his official and individual capacity,

BRIAN V. COLEMAN,

in his official and individual capacity,

ROBERT TRETINIK, RN,

in his official and individual capacity,

PETE SAAVEDRA,

in his official and individual capacity,

DARLA COWDEN, PA,

in her official and individual capacity.

Defendants.

Civil Action No. 11-0484

Chief District Judge Gary L. Lancaster

MEMORANDUM ORDER

The above captioned case was initiated by the filing of a motion to proceed *in forma pauperis* (ECF No. 1) on April 11, 2011, and was referred to a united states magistrate judge for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and the local rules of court.

On December 23, 2011, the Magistrate Judge filed a Report and Recommendation (ECF No. 62) recommending that the pending Motions to Dismiss (ECF Nos 22 & 57) be denied. Plaintiff was served with the Report and Recommendation at his listed address and was advised that he had until January 9, 2012 to file written objections to the Report and Recommendation. No objections have been filed.

After *de novo* review of the pleadings and documents in this case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 30th day of January, 2012;


IT IS HEREBY ORDERED that the Motion to Dismiss filed by Defendants Darla Cowden and Michael J. Herbig (ECF No. 22) is **DENIED**.

IT IS FURTHER ORDERED that the Motion to Dismiss filed by Defendants Robert Tretinik and Brian Coleman (ECF No. 57) is **DENIED**.

IT IS FURTHER ORDERED that the Report and Recommendation (ECF No. 62) is **ADOPTED** as the Opinion of the Court.

IT IS FURTHER ORDERED that this case is remanded back to the Magistrate Judge for further pretrial proceedings.

By the Court:



Gary L. Lancaster, Chief
United States District Judge

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